establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act. Applicants request an exemption under sections 6(c) and 17(b) to allow the above transactions.

9. Applicants believe that the proposed transactions meet the standards of sections 6(c) and 17(b). The consideration paid for the sale and redemption of shares of Underlying Portfolios and Underlying Non-SEI Funds will be based on the net asset value of the Underlying Portfolios and Underlying Non-SEI Funds, respectively, subject to applicable sales charges. The Trust and Non-SEI Funds of Funds' purchase and sale of shares of the Underlying Portfolios and Underlying Non-SEI Funds is consistent with the Trust and Non-SEI Funds of Funds' policy, as set forth in their registration statements. Applicants also believe that the proposed transactions are consistent with the general purposes of the Act.

10. Section 17(d) prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from effecting any transaction in which such investment company is a joint, or joint and several, participant with such person in contravention of SEC rules and regulations. Rule 17d–1 provides that an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, shall not participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which the registered investment company is a participant unless the SEC has issued an order approving the arrangement. Applicants assert that the proposed arrangement is intended to provide substantial benefits for both the Portfolios and the Non-SEI Funds of Funds and their respective Underlying Portfolios and Underlying Non-SEI Funds, including increased diversification, more efficient portfolios management, a larger asset base, and reduced expenses. Therefore, for the reasons discussed above, applicants believe that the proposed arrangement is consistent with the provisions, policies, and purposes of the Act. Furthermore, the Portfolios and Non-SEI Funds of Funds and their respective Underlying Portfolios and Underlying Non-SEI Funds will not participate in the proposed arrangement on a basis that is different from or less advantageous than the participants that are not investment companies.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. Each Portfolio and each Underlying Portfolio will be part of the ''same group of investment companies,'' as defined in rule 11a–3 under the Act. In addition, each Non-SEI Fund of Funds and each Underlying Non-SEI Fund will be part of the same ''group of investment companies.''

2. No Underlying Portfolio or Underlying Non-SEI Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

3. A majority of the trustees of the Trust and a majority of the trustees or directors of each Non-SEI Fund of Funds, will not be ''interested persons,'' as defined in section 2(a)(19) of the Act.

4. Any sales charges or service fees charged to the shares of a Portfolio or Non-SEI Fund of Funds, when aggregated with any sales charges or service fees paid by the Portfolio or Non-SEI Fund of Funds relating to the securities of the respective Underlying Portfolio or Underlying Non-SEI Fund, shall not exceed the limits set forth in Article III, section 26, of the NASD's Rules of Fair Practice.

5. Before approving any advisory contract under section 15 of the Act, the board of trustees of the Trust and the board of trustees or directors of the Non-SEI Fund of Funds, including a majority of the trustees or directors who are not ''interested persons,'' as defined in section 2(a)(19), will find that advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided under any Underlying Fund or Underlying Non-SEI Fund advisory contract. The finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Trust or Non-SEI Fund of Funds.

6. Applicants agree to provide the following information, in electronic format, to the Chief Financial Analyst of the SEC's Division of Investment Management: monthly average total assets of each Portfolio and Non-SEI Fund of Funds and each respective Underlying Portfolio and Underlying Non-SEI Fund of Funds; monthly purchases and redemptions (other than by exchange) for each Portfolio and Non-SEI Fund of Funds and each respective Underlying Portfolio and Underlying Non-SEI Fund; monthly exchanges into and out of each Portfolio and Non-SEI Fund of Funds and each respective Underlying Portfolio and Underlying Non-SEI Fund; month-end allocations of each Portfolio's assets among the Underlying Portfolios and of the assets of each Non-SEI Fund of Funds among its Underlying Non-SEI Funds; annual expense ratios for each Portfolio and each Non-SEI Fund of Funds and each respective Underlying Portfolio and Underlying Non-SEI Fund; and a description of any vote taken by the shareholders of any Underlying Portfolio and any Underlying Non-SEI Fund, including a statement of the percentage of votes cast for and against the proposal by the Portfolio and the Non-SEI Fund of Funds and by the other shareholders of the Underlying Portfolio and Underlying Non-SEI Fund. Such information will be provided as soon as reasonably practicable following each fiscal year-end of the Trust and each Non-SEI Fund of Funds (unless the Chief Financial Analyst shall notify applicants in writing that such information need no longer be submitted).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29111 Filed 11–28–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21537; 812–9738]

Smith Barney Inc., et al.; Notice of Application

November 21, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the ''Act''.

APPLICANTS: Smith Barney Inc. (''Smith Barney''); Smith Barney Mutual Funds Management Inc. (''SBMFM''); Smith Barney Strategy Advisers Inc. (''Strategy Advisers''); and Smith Barney Cardinal Investment Fund Inc. (''Cardinal''), Smith Barney Aggressive Growth Fund Inc., Smith Barney Appreciation Fund Inc., Smith Barney Equity Funds, Smith Barney Fundamental Value Fund Inc., Smith Barney Funds, Inc., Smith Barney Income Funds, Smith Barney Investment Funds, Inc., Smith Barney Managed Governments Fund Inc., Smith Barney Money Funds, Inc., Smith Barney World Funds, Inc., and each open-end management investment company, or series thereof, that is or

will be part of a group of investment companies that holds itself out to investors as related companies for purposes of investment and investor services (a) for which Smith Barney or any entity controlling, controlled by, or under common control with, Smith Barney now or in the future acts as principal underwriter or (b) for which Smith Barney, SBMFM, Strategy Advisers, or any entity controlling, controlled by, or under common control with Smith Barney, SBMFM, or Strategy Advisers now or in the future acts as investment adviser (the ''Smith Barney Funds'' or the ''Funds'').[1]

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act from section 12(d)(1) of the Act, and under sections 6(c) and 17(b) of the Act from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would allow Cardinal to acquire up to 100% of the voting shares of any other Smith Barney Fund.

FILING DATES: The application was filed on August 28, 1995, and was amended on November 15, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 18, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 388 Greenwich Street, New York, New York 10013–2996.

FOR FURTHER INFORMATION CONTACT: Sarah A. Wagman, Staff Attorney, at (202) 942–0654, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Cardinal will be registered under the Act as an open-end management investment company. Cardinal initially will consist of five funds organized as series or portfolios: (a) Aggressive Growth Portfolio, (b) Growth Portfolio, (c) Growth and Income Portfolio, (d) Balanced Portfolio, and (e) Income Portfolio. Cardinal will function as a ''fund of funds,'' investing substantially all of its assets in shares of other Smith Barney Funds (the ''Underlying Funds''). Additional funds of funds that may be established in the future in accordance with the terms and conditions of the requested order may be organized as: (a) Series of Cardinal, (b) series of any other Smith Barney Fund, or (c) any other Smith Barney Fund that does not offer its securities in separate series (Aggressive Growth Portfolio, Growth Portfolio, Growth and Income Portfolio, Balanced Portfolio, Income Portfolio, and any future funds of funds are referred to herein as the ''Cardinal Funds''). The Cardinal Funds currently expect to issue shares of each series in multiple classes, as permitted by rule 18f–3 under the Act or any applicable exemptive order.

2. Each Smith Barney Fund is organized either as a Maryland corporation or a Massachusetts business trust. The Smith Barney Funds are principally sold by Smith Barney financial consultants.

3. Smith Barney is a Delaware corporation and is registered as a broker-dealer under the Securities Exchange Act of 1934, and as an investment adviser under the Investment Advisers Act of 1940 (''Investment Advisers Act''). Smith Barney is an indirect wholly-owned subsidiary of Travelers Group Inc. Smith Barney is the principal underwriter of all of the Funds.

4. Strategy Advisers and SBMFM are both investment advisers registered under the Investment Advisers Act, and are indirect wholly-owned subsidiaries of Travelers Group Inc. Either Strategy Advisers or SBMFM is the investment adviser to each Fund. SBMFM intends to provide advisory services to the Cardinal Funds regarding each Cardinal Fund's asset allocation, general economic conditions, and other advisory services.

5. SBMFM is considering charging the Cardinal Funds an advisory fee, presently expected to be approximately ten basis points (0.1%) (which may be waived initially) for providing these services. Although SBMFM would also earn advisory fees arising by virtue of its investment advisory contracts with the Underlying Funds, these fees would not be duplicative of any fee charged directly to the Cardinal Funds. Any advisory fee charged at the level of the Cardinal Funds would compensate SBMFM for services (*e.g.*, asset allocation) that are unique to the Cardinal Funds and would not be provided at the level of the Underlying Funds because those Funds would have no need for such services. If SBMFM determines to charge an advisory fee for such allocation and other advisory services, or to increase any advisory fee borne by a Cardinal Fund, it will do so only in conformity with the requirements of the conditions to the requested order.

6. SBMFM is also the administrator for each Fund. As administrator, SBMFM provides fund accounting services, calculates each Fund's daily net asset value, maintains the Funds' required books and records, and provides the Funds with corporate secretarial and clerical services, corporate officers and office space.

7. Pursuant to its investment objectives and policies, each Cardinal Fund will invest in shares of the Underlying Funds and, possibly, short-term paper. Applicants expect that the Cardinal Funds will not pay sales loads or a distribution and service fee charged pursuant to a plan adopted in accordance with rule 12b–1 under the Act in connection with the Cardinal Funds' investments in shares of the Underlying Funds. If, in the future, a Cardinal Fund chooses to invest in shares of an Underlying Fund that incurs sales charges, it will do so only in accordance with the conditions to the requested order.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale

[1] Existing Smith Barney Funds that intend to rely on the requested order have been named as applicants. Other Smith Barney Funds do not presently intend to rely on the requested order, but may do so in the future in accordance with the terms of the requested order.

will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 6(c) provides that the SEC may exempt persons or transactions if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order under section 6(c) exempting them from section 12(d)(1)(A) and (B) to permit the Cardinal Funds to invest in shares of the Underlying Funds in excess of the percentage limitations of section 12(d)(1).

3. Applicants state that the Cardinal Funds have been created to function as an asset allocation mechanism. Applicants believe that the Cardinal Funds provide professional investment management for those investors who wish to diversify their mutual fund investments, but desire professional management to decide which mutual funds to select, how much of their assets to commit to each Fund, and when to reallocate their investments.

4. Section 12(d)(1) was intended to mitigate or eliminate actual or potential abuses which might arise when one investment company acquires shares of another investment company. These abuses include the acquiring fund imposing undue influence over the management of the acquired funds through the threat of large-scale redemptions, the acquisition by the acquiring company of voting control of the acquired company, the layering of sales charges, advisory fees, and administrative costs, and the creation of a complex pyramidal structure which may be confusing to investors.

5. Applicants believe that none of these potential or actual abuses are present in their proposed fund of funds structure. Applicants assert that the structure of the Cardinal Funds will not result in excessive fees for Cardinal Fund shareholders. Although SBMFM is considering charging an advisory fee to the Cardinal Funds, advisory fees charged to the Cardinal Funds and the Underlying Funds would not be duplicative. If SBMFM determines to charge an advisory fee for such allocation services, or to increase any advisory fee charged to a Cardinal Fund, such fees, in accordance with the conditions to the requested order, would only be for services that augment, rather than duplicate, advisory services provided to the Underlying Funds.

6. Applicants also assert that their proposed fund of funds structure does not present any danger of excessive sales charges. Although applicants have reserved the right to have different sales charge structures in the future, which may include the payment of sales charges or service fees at both the Cardinal Fund and Underlying Fund level, applicants assert that such structures would not result in excessive or duplicative sales charges. In the event that a Cardinal Fund would invest in shares of an Underlying Fund that also bears sales charges or service fees, it would do so only in accordance with the conditions to the requested order, which require that any such sales charges or service fees, in the aggregate, be within the limitations set forth in section 26 of Article III of the National Association of Securities Dealers (''NASD'') Rules of Fair Practice.[2]

7. Applicants assert that the Cardinal Funds would pose no threat of excessive control over the Underlying Funds. The shares of any Underlying Fund held by a Cardinal Fund will be voted either in proportion to the vote of all other holders of the securities of that Underlying Fund, or by pass-through voting by the shareholders of the Cardinal Funds. As well, applicants assert that redemption threats and a concomitant risk of lost advisory fees are not a problem in the context of a fund of funds structure in which all of the funds are members of the same fund family. The Cardinal Funds will only acquire shares of other Smith Barney Funds. Because Smith Barney affiliates are the advisers to the Smith Barney Funds and SBMFM will be the adviser to the Cardinal Funds, a redemption from one Smith Barney Fund will simply lead to the placing of the proceeds into another Smith Barney Fund. For these reasons, applicants submit that the requested order exempting applicants from section 12(d)(1) to the extent described in the application meets the standards of section 6(c).

B. Section 17(a)

1. Section 17(a) makes it unlawful for an affiliated person of a registered investment company, or an affiliated person of such person, to sell securities to, or purchase securities from, the company. The Cardinal Funds and the Underlying Funds may be considered affiliated persons because the funds may be deemed to be controlled by their advisers, who are under the common control of Smith Barney. Thus, an Underlying Fund's issuance of its shares to a Cardinal Fund may be considered a sale prohibited by section 17(a).

2. Section 17(b) provides that the SEC shall exempt a proposed transactions from section 17(a) if evidence establishes that: (a) the terms of the proposed transactions are reasonable and fair and do not involve overreaching; (b) the proposed transactions is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act. Applicants request an exemption under sections 6(c) and 17(b) to permit the Underlying Funds to sell their shares to the Cardinal Funds.[3] Applicants believe that the proposed transactions meet the standards of sections 6(c) and 17(b).

Applicants' Conditions

Applicants agree that the order granting the required relief shall be subject to the following conditions:

1. The Cardinal Funds and each Underlying Fund will be part of the same ''group of investment companies'' as defined in paragraph (a)(5) of rule 11a–3 under the Act.

2. The Cardinal Funds will not invest in an Underlying Fund unless that Fund may not acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by section 12(d)(1)(D).

3. At least a majority of each Cardinal Fund's directors will not be ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Directors''), and the selection of Independent Directors necessary to fill any vacancies on the board of directors, as well as the nomination of those persons to be recommended by the board of directors in connection with any shareholder vote, will be committed to the discretion of such Independent Directors.

4. Prior to approving any advisory contract under section 15 of the Act, the directors of each Cardinal Fund, including a majority of the Independent Directors, shall find that the advisory fees charged under such contract, if any, are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract of any Underlying Fund in which a Cardinal Fund may invest. These findings and their basis will be recorded fully in the minute books of the Cardinal Fund.

[2] As multiple class funds, the Cardinal Funds will apply the NASD restrictions on a class-by-class basis to ensure that no investor would pay excessive sales charges.

[3] Section 17(b) applies to specific proposed transactions, rather than an ongoing series of future transactions. *See* Keystone Custodian Funds, 21 S.E.C. 295, 298–99 (1945). Section 6(c) frequently is used to grant relief from section 17(a) to permit an ongoing series of future transactions.

5. Any Sales Charges or Service Fees, as such terms are defined under section 26(b) of Article II of the NASD Rules of Fair Practice, as may be charged with respect to securities of a Cardinal Fund, when aggregated with any such Sales Charges and/or Service Fees borne by the Cardinal Fund with respect to the shares of an Underlying Fund, shall not exceed the limits set forth in section 26(d) of Article III of the NASD Rules of Fair Practice.

6. Applicants will provide the following information in electronic format to the Chief Financial Analyst of the SEC's Division of Investment Management as soon as reasonably practicable following each fiscal year-end of each Cardinal Fund, unless the Chief Financial Analyst notifies applicants that the information need no longer be submitted: (a) monthly average total assets of each Cardinal Fund and each Underlying Fund in which a Cardinal Fund invests; (b) monthly purchases and redemptions (other than by exchange) for each Cardinal Fund and each Underlying Fund in which a Cardinal Fund invests; (c) monthly exchanges into and out of each Cardinal Fund and each Underlying Fund in which a Cardinal Fund invests; (d) month-end allocations of each Cardinal Fund's assets among the Underlying Funds in which it invests; (e) annual expense ratios for each Cardinal Fund and each Underlying Fund in which a Cardinal Fund invests; and (f) a description of any vote taken by the shareholders of any Underlying Fund in which a Cardinal Fund invests, including a statement of the percentage of votes cast for and against the proposal by the Cardinal Fund and by the other shareholders of that Underlying Fund.

7. Substantially all of the assets of each Cardinal Fund will be invested in shares of Underlying Funds. Each Cardinal Fund will not hold any investment securities other than shares of Underlying Funds and short-term paper.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29110 Filed 11–28–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket S–928]

Margate Shipping Company, and Chestnut Shipping Company; Notice of Application for Payment of Unused Operating-Differential Subsidy

Notice is hereby given that Margate Shipping Company (Margate) and Chestnut Shipping Company (Chestnut) request the extensions of their operating-differential subsidy agreements (ODSA) for five years or, in the alternative, a new five year ODSA, for the purpose of using available but unused days of operating-differential subsidy (ODS), which have accrued under their respective ODSAs, commencing as of January 1, 1974. Additionally, pursuant to section 605(b) of the Merchant Marine Act, 1936, as amended, Margate and Chestnut (applicants) request that the subsidizable lives of the following vessels be extended to the indicated dates:

Vessel	Extended date
CHESTNUT HILL	December 1, 2001.
KITTANNING	March 1, 2002.
CHELSEA	February 28, 2000.
CORONADO	December 28, 1998.
CHERRY VALLEY ..	July 10, 1999*.

*The Maritime Administration has previously extended the subsidizable lives of the CHERRY VALLEY, CHELSEA, and CORONADO to February 28, 1997.

On January 3, 1972, Margate entered into Contract MA/MSB–134 for the CORONADO, CHERRY VALLEY, and CHELSEA. Chestnut entered into Contract MA/MSB–299 for the CHESTNUT HILL and KITTANNING on December 17, 1973.

On November 9, 1989, the Maritime Administration (MARAD) approved a vessel sharing/substitution system in which Contract MA/MSB–299 and MA/MSB–134 were amended to include the CHILBAR, GOLDEN GATE, EDGAR M. QUEENY, ENERGY INDEPENDENCE, and FREDERICKSBURG, provided that the annual amount of ODS accrued for all vessels operating under the two ODSAs would not exceed five ship years of subsidized operation in any given year.

On December 22, 1993, MARAD agreed to separate Contract MA/MSB–134 and MA/MSB–299 into distinct ODSA contracts to correct the inequitable result of terminating these agreements 20 years from the date of entry into subsidized service of the first vessel delivered. The separate agreements provided that each subsidized vessel would have a full 20-year operating period from date of entry into service until termination of its ODSA.

Margate's ODSAs on the CORONADO, CHERRY VALLEY, and CHELSEA (Contracts MA/MSB–134(a), (b), and (c) expired on December 27, 1993, July 9, 1994, and February 27, 1995, respectively, when each vessel reached 20 years of age. At present Chestnut may operate the following vessels under Contracts MA/MSB–299(a) and (b), which expire on November 30, 1996 and on February 28, 1997, when the CHESTNUT HILL and KITTANNING reach 20 years of age:

CHESTNUT HILL
KITTANNING
CHELSEA
CORONADO
CHERRY VALLEY
CHILBAR
FREDERICKSBURG

The applicants advise that the unused subsidy days for the Margate and Chestnut ODSAs commencing January 1, 1974, are as follows:

ODSAs	Unused days
Contracts MA/MSB–134, 134(a), (b), and (c)	729.00
Contracts MA/MSB–299, 299(a) and (b) (to September 1995) ..	3,153.90
Less subsidy sharing days (to September 1995)	(857.00)
	2,296.90

According to the applicants, Chestnut and Margate have a total of 3,025.90 unused subsidy days (729.00 days plus 2,296.90 days). Margate and Chestnut request that if Brookville Shipping, Inc.'s application is granted (see 60 Fed. Reg. 54099, Oct. 19, 1995), that Margate and Chestnut also be enabled to obtain the full unused benefits of their ODSAs by extending Contracts MA/MSB–134 (a), (b), and (c) and Contract MA/MSB–299 (a) and (b) for an additional five years beyond their expiration dates, or in the alternative, Margate and Chestnut request that the Maritime Subsidy Board (Board) enter into five year ODSAs with Margate and Chestnut for the payment of ODS for the number of unused subsidy days of their respective ODSAs.

In connection with this request, Margate and Chestnut further ask the Board to permit them to share the unused subsidy days among the CHESTNUT HILL, KITTANNING, CHELSEA, CORONADO, CHERRY VALLEY, CHILBAR, and FREDERICKSBURG without limitation